

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 20TH FEBRUARY 2007 / 1ST PHALGUNA 1928

WP(C).No. 23443 of 2005(N)

PETITIONER:

1. K. MADHURA, W/O.LATE K.P.VELAYUDHAN,
AGED 75 YEARS, KALATHIL HOUSE, ATHIRKAD,
GANDHI SEVA SADAN P.O., PERUR (VIA), PALAKKAD.
2. P.THANKAMANI AMMA,
W/O. LATE SETHUMADHAVAN NAIR, AGED 62 YEARS,
PULLOTTE HOUSE, PYLOOR P.O., KOLLENGODE,PALAKKAD.

BY ADV. SRI.JACOB SEBASTIAN

RESPONDENTS:

1. THE UNION OF INDIA,
REP. BY THE SECRETARY, MINISTRY OF HOME AFFAIRS,
NEW DELHI.
2. THE UNDER SECRETARY TO THE GOVT.OF INDIA
FREEDOM FIGHTERS DIVISION,MINISTRY OF HOME AFFAIRS
NEW DELHI.
3. THE STATE OF KERALA,
REP. BY THE SECRETARY, GENERAL ADMINISTRATION
DEPARTMENT, SECRETARIAT, TRIVANDRUM.
4. THE DISTRICT COLLECTOR, PALAKKAD.

R1 AND R2 BY ADV. SRI.R.SATHISH KUMAR, ADDL.CGSC
R3 AND R4 BY G.P. SMT. R. BINDU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 20/02/2007 THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONERS' EXHIBITS:

EXT.P1 TRUE COPY OF THE CERTIFICATE DATED 13.9.71 ISSUED BY THE ALL INDIA INA COMMITTEE

EXT.P2 TRUE COPY OF THE PHOTOGRAPH OF LATE K.P. VELAYUDHAN IN THE UNIFORM OF THE INDIAN NATIONAL ARMY, PHOTOGRAPH BY JAI HIND STUDIO, NO. 9, NIVEN ROAD, SINGAPORE.

EXT.P3 TRUE COPY OF THE LEAVE PASS FOR THE PERIOD 22.8.05 TO 21.11.05 ISSUED BY THE STATION COMMANDER INA TROOPS, KAULA LUMPUR

EXT.P4 TRUE COPY OF THE LETTER NO. 26/3892/76-FFINA (V-1) DATED 4.1.77 ISSUED BY THE FIRST RESPONDENT.

EXT.P5 TRUE COPY OF THE ORDER DATED 20.5.85 OF THE DISTRICT COLLECTOR, PALAKKAD.

EXT.P6 TRUE COPY OF THE REMINDER DATED 26.5.1987 SUBMITTED BY THE FIRST PETITIONER.

EXT.P7 TRUE COPY OF THE LETTER DATED 15.1.2005 OF THE DISTRICT COLLECTOR, PALAKKAD.

EXT.P8 TRUE COPY OF THE ORDER DATED 14.1.1986 OF THE DISTRICT COLLECTOR, PALAKKAD.

EXT.P9 TRUE COPY OF THE REMINDER DATED 16.5.85 SENT BY LATE SETHUMADHAVAN NAIR.

EXT.P10 TRUE COPY OF THE LETTER DATED 1.1.92 ISSUED BY THE ACCOUNTANT GENERAL (A & E), THIRUVANANTHAPURAM.

RESPONDENTS' EXHIBITS: NIL

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

W.P.C. NO. 23443 OF 2005

Dated this the 20th day of February, 2007

JUDGMENT

The prayer in the Writ Petition is for direction to respondents 1 and 2 to consider the claim of petitioners for family pension under the Swatantrata Sainik Samman Pension Scheme of the Central Government. Late husbands of the petitioners were granted Kerala Freedom Fighters' Pension on the ground of their claim that they were members of the Indian League/INA. Freedom fighters' pension granted to husbands of the petitioners was granted to the petitioners on the death of their husbands. First petitioner's husband died some time in June, 1984 and the second petitioner's husband died some time in 1992. Even though the last date for filing the application for SSS Pension was 31.7.1973, late husbands of the petitioners did not succeed in getting pension under the Central Scheme on account of non-filing of application in time along with proof of suffering as freedom fighters. The claim of the petitioners is that delay should not affect their right to get Central Govt. Pension. I have gone through the documents

produced, which do not show that petitioners or their late husbands have made any timely application along with required documents to claim the benefit. In fact SSS Pension is granted only on the recommendation of the State Government and State Government has not recommended because applications filed by petitioners/their late husbands were rejected on account of inordinate delay. Delay in making application for freedom fighters' pension should not be treated as fatal because pension is a continuous right available to freedom fighter or his widow. Obviously the District Collector has not considered the claim of the petitioners on merits as applications were not filed in time. It is seen from several cases coming before this Court that pension is granted with inordinate delay if the applicants are found eligible. In the circumstances, I direct the District Collector to consider the basis on which petitioners are granted family pension under the Kerala Govt. Freedom Fighters' Pension scheme and if the same norms are applicable for the SSS pension under the Central Govt. he will, immediately on production of a copy of this judgment, recommend the case of the petitioners for pension and if the recommendation is made

by the District Collector, there will be direction to respondents 1 and 2 to grant pension to the petitioners.

W.P. is disposed of as above.

(C.N.RAMACHANDRAN NAIR)
Judge

